

## **REMARKS**

Claims 2-10, 12-16, 21-33, and 37-40 are pending, claims 21-24 having been amended. The claim amendments find support in the specification and claims. Accordingly, there are no issues of new matter.

### Allowable Subject Matter

Claims 2-10, 12-16, 25-33, and 37-39 were allowed.

### 112, 2<sup>nd</sup> Paragraph, Rejection

Claim 21 was rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, as allegedly being indefinite. The rejected language has been deleted, rendering the rejection moot. Withdrawal of the rejection is therefore requested.

### 102 Rejections

Claims 21 and 40 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Salyer (US 4,867,439). Applicant traverses the rejections.

Claim 21 as amended relates to an exercise machine comprising a movable portion having a rigid member, a resisting member, a variably adjusting member, and a connecting member, where the movable portion includes a frame having an overhead frame, a front frame, a rear frame, and first and second axle supports attached to ends of the rear frame; a roller disposed between the first and second axle supports; and an axle extending through the roller and having a portion extending external to the second axle support, where the rigid member is connected to the external portion.

In contrast, Salyer does not disclose at least the movable portion including the frame, roller, and axle as configured in Applicant's claim 21. Salyer discloses exercise equipment including tires 316, 318 connected by axle shafts 322, 324 via unit 326. See, e.g., Salyer, Fig. 6. However, Salyer does not disclose at least a frame having overhead, front, and rear frames, a roller disposed between supports attached to a rear frame, and an axle that has a portion external to one of the roller supports, as in Applicant's claim 21.

Accordingly, claim 21 and its dependent claims are not believed to be anticipated by Salyer. Withdrawal of the rejections is therefore requested.

103 Rejections

Claims 22-24 were rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Eschenbach (US 5,529,554) in view of Szymiski (US 4,438,921). Applicant traverses the rejections.

Claims 22-24 have been amended to depend from claim 21.

Neither Eschenbach nor Szymiski teach or suggest at least the movable portion including the frame, roller, and axle as configured in Applicant's claim 21.

Eschenbach describes a collapsible exercise machine including frame tubes 80 and 84 that are connected to a brake drum 110 therebetween. One end of frame tube 84 is connected to the drum 110 and the other end is connected to a frame tube 88. One end of frame tube 80 is connected to the drum 110 and the other end is connected to a frame tube 76. See, e.g., Eschenbach, Figs. 1-3. However, Eschenbach's configuration does not include at least overhead, front, and rear frames, a roller disposed between supports attached to a rear frame, and an axle that has a portion external to one of the roller supports, as in Applicant's claim 21.

This deficiency of Eschenbach is not corrected by Szymiski because Szymiski also fails to describe at least the movable portion including the frame, roller, and axle configuration of Applicant's claim 21. Rather, Szymiski describes a vertical support means 11 having a wheel 12 mounted thereon and a guard 13 attached thereto to rotate a sprocket secured to the wheel. See, e.g., Szymiski, Figs. 1-2; col. 2, ll. 39-53.

Since neither reference teaches or suggests at least Applicant's movable portion including the frame, roller, and axle as configured in Applicant's claim 21, their combination also fails to do so.

Accordingly, claim 21 and its dependent claims 22-24 are believed to be patentable over Eschenbach in view of Szymiski. Withdrawal of the rejections is therefore requested.

**CONCLUSION**

The claims are believed to be allowable.

The Examiner is invited to call the undersigned at (202) 220-4200 to discuss any information concerning this application.

The Office is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,

Date: June 5, 2007

/Cassandra T. Swain, Ph.D./  
Cassandra T. Swain, Ph.D.  
Registration No. 48,361

KENYON & KENYON LLP  
1500 K Street, NW, Suite 700  
Washington, D.C. 20005-1257  
Tel.: (202) 220-4200  
Fax.: (202) 220-4201

5

10